

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

MANUEL GONZALEZ-RIOS
Plaintiff,

v.

EUYEN TRUCK, INC. AND
EUGENIO MARRERO
Defendants.

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CIVIL ACTION NO. _____

DEFENDANTS' NOTICE OF REMOVAL

Defendants Euyen Truck, Inc. and Eugenio Marrero file this notice of removal pursuant to 28 U.S.C. §1446(a).

I.

INTRODUCTION

1. On October 14, 2015, Plaintiff Manuel Gonzalez-Rios ("Plaintiff") sued Defendants Euyen Truck, Inc. and Eugenio Marrero ("Defendants") in the 415th Judicial District Court of Parker County, Texas. The suit arises out of Plaintiff's alleged injuries resulting from an automobile accident which occurred on or about August 30, 2015.

2. Defendants' received notice of this suit on November 11, 2015. Defendants file this notice of removal within the 30-day time period required by 28 U.S.C. § 1446(b). *Bd. Of Regents of Univ. of Tex. Sys. v. Nippon Tel. & Tel. Corp.*, 478 F.3d 274, 278 (5th Cir. 2007).

II.

BASIS OF REMOVAL

3. This Court has original jurisdiction over this case pursuant to 28 U.S.C. § 1332, in that this is a civil action where the amount in controversy exceeds \$75,000, excluding interest and costs, and is between citizens of different States.

Amount in Controversy

4. In Plaintiff's Original Petition, Plaintiff states that he seeks monetary relief of more than \$1,000,000. If a plaintiff seeks monetary relief and demands an amount that exceeds the minimum jurisdictional amount of \$75,000 (excluding interest and cost), the defendant can rely on that demand to meet the jurisdictional requirement. 28 U.S.C. § 1446(c)(2); *see S.W.S. Erectors, Inc. v. Infax, Inc.*, 72 F.3d 489, 492 (5th Cir. 1996). A defendant can remove based on the amount in the complaint even if the defendant has a complete or partial defense to the suit. *Saint Paul Mercury Indem. Co. v. Red Cab Co.*, 303 U.S. 283, 292 (1938). Thus, the amount in controversy clearly exceeds \$75,000.

Diversity

5. Plaintiff, an individual, is domiciled in Texas. Accordingly, Plaintiff is a citizen of Texas.

6. Defendant Euyen Truck, Inc. ("Euyen") is a Florida corporation, incorporated under the laws of Florida, with its principal place of business in Florida. Accordingly, Euyen is a citizen of Florida.

7. Defendant Eugenio Marrero ("Marrero"), an individual, is domiciled in Florida. Accordingly, Marrero is a citizen of Florida.

8. Because Plaintiff is a citizen of Texas and Defendants are citizens of Florida, complete diversity of the parties exists. Accordingly, this Court properly has jurisdiction and removal is proper.

9. All defendants who have been properly joined and served join in or consent to the removal of this case to Federal Court. 28 U.S.C. § 1446(b)(2)(A).

10. A copy of the docket sheet and each document contained in the State Court's file, along with an index of the matters being filed with this notice, are attached hereto as Exhibit "A" as required by 28 U.S.C. §1446(a) and Local Rule 81.1.

11. Venue is proper in this District under 28 U.S.C. §1441(a) because the State Court where the suit has been pending is located in this District.

12. Defendant will concurrently file a copy of this notice of removal with the clerk of the State Court where the action has been pending.

III.

JURY DEMAND

13. Plaintiff did not demand a jury in the State Court action.

IV.

PRAYER

14. For the foregoing reasons, Defendants Euyen Truck, Inc. and Eugenio Marrero ask the Court to remove this action to the United States District Court for the Northern District of Texas, Fort Worth Division.

Respectfully submitted,

By: s/ Joseph D. Zopolsky
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COUNSEL FOR DEFENDANTS
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EUGENIO MARRERO

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing document was served upon all attorneys of record in the above-captioned cause pursuant to the Federal Rules of Civil Procedure on this the 11th day of December 2015, by:

Hand Delivery: _____
Certified Mail: XX
Fax Transmittal: _____

s/ Joseph D. Zopolsky
Joseph D. Zopolsky